THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.12468 of 2021

ORDER: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr. K.Kalyan Chakravarthy, learned counsel for the petitioner; Mr. Praveen Kumar Jain, learned counsel for respondent Nos.1 & 2; and Mr. B.Mukherjee, learned counsel appearing on behalf of Mr. N.Rajeshwar Rao, learned Assistant Solicitor General of India for respondent No.3.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks quashing of notices dated 01.06.2020 and 16.02.2021 issued by the said respondents under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly referred to hereinafter as the 'SARFAESI Act').

3. Without dilating much on the factual aspects, we find that respondents State Bank of India had issued notice dated 01.06.2020 to the petitioner under Section 13(2) of the SARFAESI Act contending that an amount of Rs.3,34,88,175.00 was outstanding to be paid by the petitioner as on 31.05.2020.

4. From a perusal of the aforesaid notice, we find that the loan account of the petitioner was classified as Non-Performing Asset (NPA) on 28.05.2020. Just after three (03) days, notice dated 01.06.2020 came to be issued.

5. Be it stated that under Section 13(2) of the SARFAESI Act, after a loan account is classified as NPA, consequential notice of demand is required to be issued after expiry of 60 days from such classification.

6. When this mistake was realised, respondents State Bank of India issued fresh notice under Section 13(2) of the SARFAESI Act on 16.02.2021 wherein it was clearly

mentioned that the earlier notice dated 01.06.2020 stood cancelled.

7. In the circumstances, it is clear that there is only one demand notice under Section 13(2) of the SARFAESI Act and the same is the notice dated 16.02.2021. The law as laid down by the Supreme Court as well as by this Court is clear. At the stage of issuance of notice under Section 13(2) of the SARFAESI Act, interference by the Court should be avoided. In fact, petitioner has had the remedy of submitting objection under Section 13(3A) of the SARFAESI Act though the proviso thereto clarifies that rejection of such objection would not give rise to any cause of action for filing securitisation application under Section 17 of the SARFAESI Act.

8. That being the position, Court is not inclined to entertain the writ petition at this stage.

9. Writ Petition is accordingly dismissed. However, there shall be no order as to costs.

10. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

UJJAL BHUYAN,J

SUREPALLI NANDA, J

Date: 23.06.2022
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